

COMPTROLLER GENERAL OF THE
UNITED STATES

OMB Declassification & Release Instructions on File - No Referral to OMB

B-112563

May 28, 1953

Mr. Billie D. Bidle
c/o Madden & Burke, Attorneys at Law
500 Board of Trade Building
Kansas City 6, Missouri

Dear Mr. Bidle:

Reference is made to a letter dated March 3, 1953, from Madden & Burke requesting, in your behalf, reconsideration of the action taken by the Claims Division of this Office in settlement dated January 9, 1953, wherein your claim for transportation of household effects was disallowed, and you were advised that you were indebted to the United States in the amount of \$387.63, the unliquidated balance of \$700 advanced to you for travel and transportation expenses. The indebtedness was the subject of Claims Division letter of February 9, 1953, requesting that you remit the amount due or present a definite plan of repayment by regular monthly installments over a period not to exceed twelve months. With respect to recognition of an attorney in the prosecution of claims involving payments to be made by the United States, it is required that a proper power of attorney be filed.

The record shows that upon your application placed with the General Services Administration in Washington, D. C., you were appointed effective April 30, 1952, for duty in Kansas City, Missouri, as a Business Accountant, Grade GS-9, at the salary rate of \$5,060 per annum as fixed by the Classification Act of 1949 as amended by the act of October 24, 1951, 65 Stat. 612; that you served a period of indoctrination in Washington; and that pursuant to travel orders dated May 12, 1952, which included authorization for the transportation of your wife, household goods, and personal belongings, you were authorized to travel from Washington to Kansas City at Government expense. The record further shows that you received a travel advance of \$700 on May 14, 1952; that you reported at

the office in Kansas City on May 16 but were authorized to take off the remainder of that day and the weekend to secure living quarters; that you reported for duty on May 19; and that you resigned effective May 27, allegedly because of extensive travel involved in your new position of which you disclaimed prior knowledge. Your claim was disallowed for the reason that the cost of transportation of household goods, and other expenses of travel to an employee's first duty station--in your case, Kansas City, Missouri--are not chargeable to the Government.

It is an established rule of law, standing that an employee must bear the expense of reporting to his first duty station where his compensation is fixed by law or regulation. 4 Comp. Gen. 641; 5 id. 987; 7 id. 114; 15 id. 390. This rule is not changed by the fact that an employee is required to come to Washington, or to remain temporarily in Washington after appointment here, or to report to headquarters elsewhere, for special instructions or training before proceeding to a field station to perform the duties for which he was appointed. 9 Comp. Gen. 359; 10 id. 184; 11 id. 56; 20 id. 820.

In view of the foregoing, the administrative action in issuing travel orders purporting to authorize travel in connection with a change of official duty station at government expense, and advancing the amount of \$700 to you for such expense, was erroneous. However, such action does not preclude recovery since it is a settled principle that the United States is not bound or estopped by an erroneous payment made by its officers, with or without jurisdiction, and whether made under mistake of fact or of law. See United States v. Wurts, 303 U.S. 414; Wisconsin Central Railroad v. United States, 164 U.S. 190, and the cases collected and discussed in United States v. Sutton Chemical Company, 11 F. 2d 24.

With respect to your contention that the extensive travel requirements of the position in Kansas City, which allegedly caused your resignation, were entirely contrary to every understanding you had of the position when you were interviewed in Washington incident to your application, the General Services Administration reports that you were fully advised in your initial interviews that extensive travel would be required and that it would consume from 50 to 80 percent of your time.

Accordingly, the action taken by Office settlement of January 9, 1953, and letter of February 9, 1953, is sustained and it is again requested

that the amount of \$387.63 be remitted to this Office or that you present a definite plan of repayment by regular monthly installments over a period not to exceed twelve months accompanied by a reasonable initial remittance. Such action should be taken promptly by you so as to render unnecessary the institution of formal collection proceedings.

Very truly yours,

/s/ Lindsay C. Warren

Comptroller General
of the United States